

SENATE BILL REPORT

SB 6458

As Reported By Senate Committee On:
Health & Long-Term Care, January 28, 2008
Ways & Means, February 12, 2008

Title: An act relating to regulation of health professionals.

Brief Description: Improving patient safety through increased regulation of health professionals.

Sponsors: Senators Keiser, Shin and Kohl-Welles; by request of Governor Gregoire.

Brief History:

Committee Activity: Health & Long-Term Care: 1/24/08, 1/28/08 [DP-WM, w/oRec].
Ways & Means: 2/11/08, 2/12/08 [DPS, w/oRec].

SENATE COMMITTEE ON HEALTH & LONG-TERM CARE

Majority Report: Do pass and be referred to Committee on Ways & Means.

Signed by Senators Keiser, Chair; Franklin, Vice Chair; Fairley, Kastama, Kohl-Welles, and Marr.

Minority Report: That it be referred without recommendation.

Signed by Senators Pflug, Ranking Minority Member; Carrell, and Parlette.

Staff: Edith Rice (786-7444)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Substitute Senate Bill No. 6458 be substituted therefor, and the substitute bill do pass.

Signed by Senators Fraser, Vice Chair, Capital Budget Chair; Pridemore, Vice Chair, Operating Budget; Zarelli, Ranking Minority Member; Brandland, Carrell, Hatfield, Hewitt, Hobbs, Keiser, Kohl-Welles, Parlette, Rasmussen, Roach, Rockefeller, Schoesler and Tom.

Minority Report: That it be referred without recommendation.

Signed by Senators Honeyford and Regala.

Staff: Maria Hovde (786-7710)

Background: In May of 2006 the Governor requested the State Auditor to conduct a performance audit of the state's Health Professions' Quality Assurance at the Department of Health (Department). I-900, approved in November 2005, gave the State Auditor the authority

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to conduct independent, comprehensive performance audits to state and local government entities. A Performance Audit Report was issued (Report No. 1000002, August 21, 2007). The release of this report requires that public testimony be taken within 30 days of the report's publication. The Legislature must consider the recommendations made in the report during the budgeting process and issue an annual report by July 1 detailing the Legislature's progress in responding to the State Auditor's recommendations. The report must justify any recommendations the Legislature did not respond to and detail additional corrective measure taken.

The Uniform Disciplinary Act (UDA) governs disciplinary actions for all 57 categories of credentialed health care providers. The UDA defines acts of unprofessional conduct, establishes sanctions for such acts, and provides general procedures for addressing complaints and taking disciplinary actions against a credentialed health care provider. Responsibilities in the disciplinary process are divided between the Secretary of the Department and the 14 health profession boards and commissions (collectively known as disciplinary authorities). Individuals who have been convicted of a felony may not be disqualified from government employment or the practice of a profession or business that requires a license, solely because of the prior conviction.

Defendants who have completed their probation may have their records of convictions vacated and be released of any penalties and disabilities that arose from the conviction. In addition, the conviction is prohibited from being disseminated or disclosed by either the Washington State Patrol (WSP) or local law enforcement agencies.

Summary of Bill (Recommended Substitute): The disciplinary authority (which may be Secretary of the Department or one of the health profession boards or commissions) is allowed to grant a license subject to conditions. A disciplinary authority can deny an application for a variety of reasons including: having had his or her license revoked in another jurisdiction, unprofessional conduct, certain crimes, or failure to establish that he or she is qualified. This denial may be appealed. The disciplinary authority has the ability to require that an applicant submit to a mental, physical or psychological examination.

The disciplinary authority is authorized to fine or issue a citation to health care providers who do not respond timely to requests for documents during an investigation. Providers are given 21 days to produce requested documents and can ask for an extension.

The disciplinary authority can permanently revoke a license if a licensee cannot be rehabilitated or regain the ability to practice with reasonable skill and safety. Once a license is surrendered or revoked it is not subject to a petition for reinstatement.

The Secretary of the Department is authorized to receive criminal history information, including non-conviction data in association with investigation or licensing under this chapter. Non-conviction data cannot be used or disseminated unless authorized under this chapter.

This list of convictions that are cross-checked with the WSP's database are expanded to include financial crimes, drug crimes, and all felonies.

The State Auditor's recommendation to transfer disciplinary authority from the boards and commissions to the Department is not included in this bill.

The Medical Quality Assurance Commission (MQAC) Pilot Project is created, beginning July 1, 2008 to last for three years. The pilot project will evaluate the effect of the MQAC having increased authority over budgeting and staffing issues. The Secretary of the Department of Health will hire an executive director for MQAC with approval from the MQAC. The Executive Director will manage employees and prepare a budget. The MQAC and the Secretary will develop key performance measures and report results to the Legislature and the Governor by December 15, 2012.

EFFECT OF CHANGES MADE BY WAYS & MEANS COMMITTEE (Recommended Substitute): Specifies that standards of practice for the profession must be used when conducting investigations of complaints or reports of unprofessional conduct, and when reviewing criminal history information. Creates The Medical Quality Assurance Commission (MQAC) Pilot Project, beginning July 1, 2008 to last for three years. The pilot project will evaluate the effect of the MQAC having increased authority over budgeting and staffing issues. The Secretary of the Department of Health will hire an executive director for MQAC with approval from the MQAC. The Executive Director will manage employees and prepare a budget. The MQAC and the Secretary will develop key performance measures and report results to the Legislature and the Governor by December 15, 2012.

Appropriation: None.

Fiscal Note: Available.

[OFM requested ten-year cost projection pursuant to I-960.]

Committee/Commission/Task Force Created: No.

Effective Date: The bill contains several effective dates. Please refer to the bill.

Staff Summary of Public Testimony on Original Bill: (Health & Long-Term Care) PRO: This bill addresses recommendations contained in the State Auditor's report. It gives us useful tools to improve the quality of health care in Washington.

OTHER: We have specific concerns regarding sections of this bill dealing with license denial, fines, non-conviction data, and permanent revocation.

Persons Testifying (Health & Long-Term Care): PRO: Christina Hulet, Office of the Governor; Mary Selecky, Secretary, Department of Health.

OTHER: Anne Piazza, Washington State Nurses Association.

Staff Summary of Public Testimony on Original Bill (Ways & Means): PRO: This bill includes a number of tools that the Governor believes will be useful to the Department of Health and the professional boards and commissions in better protecting the public with regard to the discipline and licensing of health care providers. One of the drivers behind the fiscal note is the national criminal background for applicants who came from out of state and want to be licensed in Washington.

OTHER: An amendment is suggested to add language to section 4 and 7 to require a licensed professional be investigated for any misconduct using the standards of practice of that profession.

Persons Testifying (Ways & Means): PRO: Christina Hulet, Governor's policy office.
CON: Hoyt Suppres, National Association of Social Workers.